IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 318 of 2003

DATE OF DECISION : 08.02.2007

Kishan Chand

.... PETITIONER

Versus

Rajesh Kumar and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Arun Abrol, Advocate,
for the petitioner.

Mr. Rajeshwar Singh, Advocate,
for the respondents.

* * *

Petitioner Kishan Chand, who is complainant in case FIR No. 103 dated 11.9.1997, registered at Police Station Kahnuwan, under Section 304/34 IPC, has filed this revision petition against the judgment dated 20.8.2002, passed by Additional Sessions Judge, Gurdaspur, whereby respondent No.3 (Jeth of the deceased) has been acquitted and respondents No.1 and 2 (husband and mother-in-law of the deceased) have been convicted under Section 304-B IPC and they have been sentenced to undergo rigorous imprisonment for ten years and seven years, respectively. The petitioner-complainant is seeking setting aside of the judgment of acquittal qua respondent No.3 and enhancement of sentence qua respondents No.1 and 2.

2. I have heard counsel for the parties and gone through the impugned judgment.

3. The aforesaid FIR was registered on the basis of statement of complainant-petitioner Kishan Chand, who alleged that his daughter Sobha Rani, who was married to Rajesh Kumar-respondent No.1 about two years

prior to the occurrence, was being harassed by the respondents on account of demand of dowry and she was put to fire by them on 11.9.1997 for not bringing scooter and fridge**.** The respondents were tried and vide impugned judgment dated 20.8.2002, passed by the trial court, respondent No.3 was acquitted, whereas respondents No.1 and 2 were convicted and sentenced, as stated above.

4. While acquitting respondent No.3, who is elder brother of the husband of deceased, the trial court has held that he was residing separately at a different place at Gurdaspur and there was no occasion for him to maltreat the deceased on account of demand of scooter or fridge.

5. During the pendency of this revision petition, Criminal Appeal No. 1572-SB of 2002, filed by respondents No.1 and 2 against their conviction and sentence, has been allowed by this Court on 7.9.2005 and they have been acquitted of the charge, framed against them. Copy of the order dated 7.9.2005 has been placed on record by the respondents as Annexure A-1. Respondents No.1 and 2 have been acquitted by this court while holding that in the facts and circumstances of the case, the death of Sobha Rani cannot be said to be dowry death punishable under Section 304-B IPC and cruelty or harassment in connection with demand of dowry soon before her death is not proved.

6. After hearing counsel for the parties, I am of the opinion that since the entire version of the prosecution was found to be not proved by the prosecution and it has been held by this Court while acquitting respondents No.1 and 2 that the death in this case was not a dowry death, therefore, I do not find any ground to interfere in the impugned judgment of acquittal, passed by the trial court, qua respondent No.3. However, in view of the acquittal of respondents No.1 and 2 by this court, the prayer for enhancement of their sentence does not survive and has become infructuous.

7. Dismissed.

February 08, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**